

**MEMO ENDORSED****ORIGINAL**

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April 23, 2009

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VIA FACSIMILE

Hon. William C. Conner
United States District Judge
United States Courthouse
300 Quarropas St.
White Plains, NY 10601-4150

**Re: *United States v. American Society of Composers, Authors and Publishers,*
Case No. 41-1395 (Application of Celco Partnership d/b/a Verizon
Wireless)**

Dear Judge Conner:

We represent Applicant Celco Partnership d/b/a Verizon Wireless ("Verizon Wireless") in the above-referenced proceeding. We are writing to advise the Court of certain agreements reached between counsel for ASCAP and Verizon Wireless in connection with the briefing of ASCAP's pending request for interim fees.

Verizon Wireless has advised ASCAP that it intends to file a corrected Response and Declaration in order to remedy certain minor errors or omissions in the previous filing. These include: (1) removing the "restricted" designation from Sturm Declaration Exhibit 2; (2) adding the application of MediaFlo USA, Inc. to Sturm Declaration Exhibit 28; (3) substituting the "ASCAP Experimental License Agreement for Non-Interactive Services - Release 5.1," for the Internet Sites and Services Release 5.0 in Sturm Declaration Exhibit 7; (4) correcting the Response to refer to ASCAP's form agreement for "noninteractive" services on page 21 rather than "interactive" services; (5) correcting an incorrect statement that two agreements had not been produced, noting that those agreements were produced and are in effect, and including those agreements in the Sturm Declaration; and (6) updating deposition cites for which only rough transcripts were available at the time of filing. In order to minimize the risk of any potential confusion, Verizon Wireless will serve full replacement sets of the corrected documents today, with the replacement documents being filed tomorrow. ASCAP has been advised of, and has consented to, this substitution, on the condition that ASCAP's deadline for filing and serving its Reply be extended as set out below.

ASCAP has requested that its deadline for filing and serving its Reply on the interim fee issue be extended from April 23, 2009 until April 28, 2009. ASCAP has agreed that any deposition notices or subpoenas by Verizon Wireless related to ASCAP's Reply will be deemed to have been served the same number of days after the original April 23, 2009 due date for the Reply as the number of days they are served after April 28. With this understanding, Verizon Wireless has consented to

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4/24/09

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ASCAP's request for an extension of time to file its Reply until April 28, 2009. The parties are available should the Court wish to discuss these issues.

The parties appreciate the Court's attention to these matters.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Andrew G. McBride".

Andrew G. McBride
Bruce G. Joseph
Counsel for Celco Partnership d/b/a Verizon Wireless

cc (via email):

Richard H. Reimer
David Leichtman
Hillel I. Parness

Applicant Verizon Wireless's request to file a corrected Response and Declaration and ASCAP's request to extend its time to file its Reply to 4/28/09 are GRANTED.

SO ORDERED.

Dated: White Plains, NY
April 24, 2009

A handwritten signature in cursive script, appearing to read "William C. Conner".

WILLIAM C. CONNER, Senior U.S.D.J.



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Facsimile

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